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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,974	06/07/2001	Devin F. Hosea	SEDN/PRED008	2589

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EXAMINER
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SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2424

MAIL DATE	DELIVERY MODE
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02/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/877,974	<b>Applicant(s)</b> HOSEA ET AL.	
	<b>Examiner</b> ANNAN Q. SHANG	<b>Art Unit</b> 2424	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Annan Q Shang/  
 Primary Examiner, Art Unit 2424

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 12/22/08 have been fully considered but they are not persuasive.

With respect to the rejection of the last office action mailed on 10/22/08, Applicant recites the claims limitations and discusses the prior arts of record Herz et al (6,088,722) in view Alexander et al (6,177,931) and further in view of Yuen et al (7,003,792) and the various 103(a) rejection and further argues that the prior arts of record do not meet the claims limitations (see page 13 of 21+ of Applicant Remarks).

In response, Examiner disagrees. Examiner notes Applicant's arguments, however, the prior arts of record meet the claims limitations as follow: Claims 121-128, 131-136, 141-143, 145, 149, 151, 153-157, 163-164 and 166- 168 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (6,088,722) in view Alexander et al (6,177,931) and further in view of Yuen et al (7,003,792), the primary prior art of record. Herz teaches a system for delivering programs, where each customer has a profile to effectively target programming (Abstract). Accordingly, Herz teaches gathering user requested content from iTV interactions, such as programs requested and watched, correlating content-associated profile information with the user requested content information, and Herz teaches developing a profile from passive monitoring of watched programs (col. 13, l1.44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV programs accessed by the user. Herz is silent as to the arrangement of the guide information, i.e., "...guide having a top portion and a bottom portion, the top portion providing programming recommendations based on the profile of the user, the bottom portion providing a standard guide in numeric order based on the channel number, where the interactive programming guide automatically appears when the user turns on a television..." However, in analogous art, Alexander teaches systems and methods for displaying TV programs, video, ads information, etc., and further provides a guide information based on preference of the user, displaying top portion and a bottom portion, the top portion providing information based on the profile of the user, the bottom portion providing a standard guide in numeric order based on the channel number, where the interactive programming guide automatically appears when the user turns on a television (figs.1-9, col.3, line 21-col.4, line 27, col.5, line 56-col.7, line 45, col.14, line48-col.15, line 1+ and col.30, line 45-col.31, line 1+). Herz as modified by Alexander, is silent on erasing all of the gathered user-requested content information from iTV interactions once the user's profile is developed, such that the user may not be matched to the gathered user-requested content information. However, in analogous art, Yuen teaches erasing all of the gathered user-requested content information from iTV interactions after developing the user's profile, such that the user may not be matched to the gathered user-requested content information, in that Yuen teaches collecting viewing and Internet histories and erasing all the raw information on a periodic basis or after integration (col. 4, ll. 10-13, col. 5, l1.43-53, col. 7, l1. 1-3), thereby complying with privacy requirements prohibiting central data mining (col. 3-4, ll. 61-3). As discussed, all references are in the same field of endeavor as well as the various 103(a), i.e., Claims 100-103, 108-110, 116, 117, 129, 130, and 150, rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (6,088,722) in view of Hendricks et al (5,659,350) further in view of Yuen et al. (7,003,792) and further in view of Alexander et al (6,177,931); Claims 104-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (6,088,722) in view of Hendricks et al. (5,659,350) in view of Yuen et al (7,003,792) in view of Alexander et al (6,177,931) and further in view of Strubbe (5,223,924), etc., As clearly discussed above and in the last office actio, all references are in the same field of endeavor and one skill in the art would have been motivated to combine the references to arrive at the claimed invention. The Examiner maintains the various 103(a) rejections are proper meet all the claimed limitations. Hence the finality of the last office action is proper, meets all the claims limitations and hereby maintained.